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AUG 03 2006

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) <div style="font-family: cursive; font-size: 1.2em;">H5J920030169457</div>							
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Application Number <div style="font-family: cursive; font-size: 1.2em;">10/629,675</div></td> <td style="width: 50%; padding: 5px;">Filed <div style="font-family: cursive; font-size: 1.2em;">07/29/2003</div></td> </tr> <tr> <td colspan="2" style="padding: 5px;">First Named Inventor <div style="font-family: cursive; font-size: 1.2em;">New</div></td> </tr> <tr> <td style="padding: 5px;">Art Unit <div style="font-family: cursive; font-size: 1.2em;">2114</div></td> <td style="padding: 5px;">Examiner <div style="font-family: cursive; font-size: 1.2em;">Lohn</div></td> </tr> </table>		Application Number <div style="font-family: cursive; font-size: 1.2em;">10/629,675</div>	Filed <div style="font-family: cursive; font-size: 1.2em;">07/29/2003</div>	First Named Inventor <div style="font-family: cursive; font-size: 1.2em;">New</div>		Art Unit <div style="font-family: cursive; font-size: 1.2em;">2114</div>	Examiner <div style="font-family: cursive; font-size: 1.2em;">Lohn</div>
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<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/98)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>33,549</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> </div> <div style="width: 45%; text-align: center;"> <div style="font-family: cursive; font-size: 1.5em; margin-bottom: 5px;">John Rogitz</div> <p>Signature</p> <hr/> <div style="font-family: cursive; font-size: 1.2em; margin-bottom: 5px;">John Rogitz</div> <p>Typed or printed name</p> <hr/> <div style="font-family: cursive; font-size: 1.2em; margin-bottom: 5px;">619.338.8075</div> <p>Telephone number</p> <hr/> <div style="font-family: cursive; font-size: 1.2em; margin-bottom: 5px;">8/3/06</div> <p>Date</p> <hr/> </div> </div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p>									
<input checked="" type="checkbox"/> *Total of <u>4</u> forms are submitted.									

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9189 and select option 2.

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First Named Applicant: New)	Art Unit: 2114
)	
Serial No.: 10/629,675)	Examiner: Lohn
)	
Filed: July 29, 2003)	HSI920030169US1
)	
For: SYSTEM AND METHOD FOR AUTONOMOUS)	August 3, 2006
DATA SCRUBBING IN A HARD DISK DRIVE)	750 B STREET, Suite 3120
)	San Diego, CA 92101
)	

PRE-APPEAL BRIEF REASONS

Commissioner for Patents
Alexandria, VA

Dear Sir:

The issues applicant would ask to be reviewed are as follows. The rejection of Claim 1 is based on the examiner equating a user changing a scrub timer (as taught in the secondary reference) with the claimed "scrub delay period that depends on a number of user requests received from a RAID controller" because, per the examiner, the user changing the timer is "a" request and "a" equals "one", which is a "number".


Applicant believes this argument fails in at least two respects: (1) the relied-upon "request" is not from a RAID controller as claimed, and (2) changing the timer in the reference depends on the existence of a request, not its inherent "number" of unity. The existence of a thing is not the same thing as a number of that thing.

1189-12.AM2

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PATENT
Filed: July 29, 2003

Respectfully submitted,



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JLR:jg

1189-12.AM2